

1-1 By: Hinojosa S.B. No. 132
 1-2 (In the Senate - Filed November 12, 2018; February 1, 2019,
 1-3 read first time and referred to Committee on Natural Resources &
 1-4 Economic Development; April 23, 2019, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 11,
 1-6 Nays 0; April 23, 2019, sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 1-9 | X | | | |
| 1-10 | X | | | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |
| 1-18 | X | | | |
| 1-19 | X | | | |

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 132 By: Hinojosa

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to operation of the Texas leverage fund program
 1-24 administered by the Texas Economic Development Bank.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Chapter 489, Government Code, is amended by
 1-27 adding Subchapter E to read as follows:

1-28 SUBCHAPTER E. TEXAS LEVERAGE FUND

1-29 Sec. 489.251. DEFINITION. In this subchapter, "leverage
 1-30 fund" means the Texas leverage fund established by Section 489.252.

1-31 Sec. 489.252. TEXAS LEVERAGE FUND. (a) The Texas leverage
 1-32 fund is created as a trust fund held outside the state treasury by
 1-33 the comptroller as trustee. The comptroller shall hold money in the
 1-34 leverage fund in escrow and in trust for and on behalf of the bank
 1-35 and the owners of bonds issued under Section 489.253.

1-36 (b) The leverage fund consists of:

1-37 (1) proceeds from the issuance of bonds under Section
 1-38 489.253;

1-39 (2) payments of principal and interest on loans made
 1-40 under this subchapter;

1-41 (3) loan origination fees imposed on loans made under
 1-42 this subchapter;

1-43 (4) investment earnings described by Subsection (e);
 1-44 and

1-45 (5) any other money received by the bank under this
 1-46 subchapter.

1-47 (c) The leverage fund may be used only:

1-48 (1) to make loans to economic development corporations
 1-49 for eligible projects as authorized by Chapters 501, 504, and 505,
 1-50 Local Government Code;

1-51 (2) to pay the bank's necessary and reasonable costs of
 1-52 administering the program established by this subchapter,
 1-53 including the payment of letter of credit fees and credit rating
 1-54 fees;

1-55 (3) to pay the principal of and interest on bonds
 1-56 issued under Section 489.253;

1-57 (4) to pay reasonable fees and other costs incurred by
 1-58 the bank in administering the leverage fund; and

1-59 (5) for any other purpose authorized by this
 1-60 subchapter.

2-1 (d) The bank, in coordination with the comptroller, may
 2-2 provide for the establishment and maintenance of separate accounts
 2-3 or sub-accounts in the leverage fund, including interest and
 2-4 sinking accounts, reserve accounts, program accounts, or other
 2-5 accounts. The accounts and sub-accounts must be kept and held in
 2-6 escrow and in trust as provided by Subsection (a).

2-7 (e) Pending use, the comptroller may invest and reinvest the
 2-8 money in the leverage fund in investments authorized by law for
 2-9 state funds. Earnings on the investments shall be credited to the
 2-10 leverage fund.

2-11 (f) The bank may use money in the leverage fund for the
 2-12 purposes specified by and according to the procedures established
 2-13 by this subchapter. This state may take action with respect to the
 2-14 leverage fund only as specified by this subchapter and only in
 2-15 accordance with the resolutions of the executive director of the
 2-16 office adopted under Section 489.253.

2-17 Sec. 489.253. REVENUE-BASED BONDS AUTHORIZED. (a) The
 2-18 bank, the office, or the office's successor agency may provide for
 2-19 the issuance, sale, and retirement of bonds, including obligations
 2-20 in the form of commercial paper notes, to provide funding for
 2-21 economic development purposes as authorized by Section 52-a,
 2-22 Article III, Texas Constitution, and this subchapter.

2-23 (b) The bonds are special obligations of the bank and the
 2-24 principal of and interest on the bonds must be payable solely from
 2-25 the revenues derived by the bank under this subchapter, including
 2-26 loan repayments secured by a pledge of the local economic
 2-27 development sales and use tax revenues imposed by municipalities
 2-28 for the benefit of economic development corporations created under
 2-29 Chapters 504 and 505, Local Government Code. The bonds do not
 2-30 constitute an indebtedness of this state, the office, or the bank in
 2-31 the meaning of the Texas Constitution or of any statutory
 2-32 limitation. The bonds do not constitute a pecuniary liability of
 2-33 this state, the office, or the bank or constitute a charge against
 2-34 the general credit of this state, the office, or the bank, or
 2-35 against the taxing power of this state. The limitations provided by
 2-36 this subsection must be stated plainly on the face of each bond.

2-37 (c) The executive director of the office by resolution may
 2-38 provide for the bonds to:

2-39 (1) be executed and delivered at any time in one or
 2-40 more series as a single issue or as several issues;

2-41 (2) be in any denomination and form, including
 2-42 registered uncertificated bonds not represented by written
 2-43 instruments and commonly known as book-entry obligations, the
 2-44 registration of ownership and transfer of which the bank shall
 2-45 provide for under a system of books and records maintained by a
 2-46 financial institution serving as trustee, paying agent, or bond
 2-47 registrar;

2-48 (3) be of a term authorized by the executive director,
 2-49 not to exceed 40 years from their date;

2-50 (4) be in coupon or registered form;

2-51 (5) be payable in installments and at a time or times
 2-52 not exceeding the term authorized by applicable law;

2-53 (6) be subject to terms of redemption;

2-54 (7) be payable at a place or places;

2-55 (8) bear no interest or bear interest at any rate or
 2-56 rates, fixed, variable, floating, or otherwise determined by the
 2-57 bank or determined under a contractual arrangement approved by the
 2-58 executive director, except that the maximum net effective interest
 2-59 rate, computed in accordance with Section 1204.005, on the bonds
 2-60 may not exceed a rate equal to the maximum annual interest rate
 2-61 established by Section 1204.006; and

2-62 (9) contain provisions not inconsistent with this
 2-63 subchapter.

2-64 (d) Bonds issued under this section are subject to review
 2-65 and approval by the attorney general in the same manner and with the
 2-66 same effect as may be required by law, including Chapter 1202 or
 2-67 1371, as applicable.

2-68 (e) This state pledges to and agrees with the owners of any
 2-69 bonds issued under this section that this state will not limit or

3-1 alter the rights vested in the bank to fulfill the terms of any
 3-2 agreements made with an owner or in any way impair the rights and
 3-3 remedies of an owner until the bonds, together with any premium and
 3-4 the interest on the bonds, with interest on any unpaid premium or
 3-5 installments of interest, and all costs and expenses in connection
 3-6 with any action or proceeding by or on behalf of the owners, are
 3-7 fully met and discharged. The bank may include this pledge and
 3-8 agreement of this state in any agreement with the owners of the
 3-9 bonds.

3-10 Sec. 489.254. BOND SALE AND ISSUANCE. (a) Bonds issued
 3-11 under Section 489.253 may be sold at public or private sale at a
 3-12 price and in a manner and from time to time as resolutions of the
 3-13 executive director of the office that authorize issuance of the
 3-14 bonds provide.

3-15 (b) From the proceeds of the sale of the bonds, the bank may
 3-16 pay expenses, premiums, and insurance premiums that the bank
 3-17 considers necessary or advantageous in connection with the
 3-18 authorization, sale, and issuance of the bonds.

3-19 (c) In connection with the issuance of its bonds, the bank
 3-20 may exercise the powers granted to the governing body of an issuer
 3-21 in connection with the issuance of obligations under Chapter 1371.
 3-22 However, any bonds issued in accordance with this subchapter and
 3-23 Chapter 1371 are not subject to the rating requirement for an
 3-24 obligation issued under Chapter 1371.

3-25 Sec. 489.255. AGREEMENTS IN BONDS. (a) A resolution of
 3-26 the executive director of the office that authorizes bonds to be
 3-27 issued under Section 489.253 or a security agreement, including a
 3-28 related indenture or trust indenture, may contain any agreements
 3-29 and provisions customarily contained in instruments securing
 3-30 bonds, including provisions respecting the fixing and collection of
 3-31 obligations, the creation and maintenance of special funds, and the
 3-32 rights and remedies available, in the event of default to the
 3-33 holders of the bonds or to the trustee under the security agreement,
 3-34 all as the bank considers advisable and consistent with this
 3-35 subchapter. However, in making such an agreement or provision, the
 3-36 bank may not incur:

3-37 (1) a pecuniary liability of this state, the office,
 3-38 or the bank; or

3-39 (2) a charge against the general credit of this state,
 3-40 the office, or the bank, or against the taxing powers of this state.

3-41 (b) The resolution of the executive director of the office
 3-42 authorizing the issuance of the bonds and a security agreement
 3-43 securing the bonds may provide that, in the event of default in
 3-44 payment of the principal of or interest on the bonds or in the
 3-45 performance of an agreement contained in the proceedings or
 3-46 security agreement, the payment and performance may be enforced as
 3-47 provided by Sections 403.055 and 403.0551, by mandamus, or by the
 3-48 appointment of a receiver in equity with power to charge and collect
 3-49 bonds and to apply revenues pledged according to the proceedings or
 3-50 the provisions of the security agreement. A security agreement may
 3-51 provide that, in the event of default in payment or the violation of
 3-52 an agreement contained in the security agreement, a trustee under
 3-53 the security agreement may enforce the bondholder's rights by
 3-54 mandamus or other proceedings at law or in equity to obtain any
 3-55 relief permitted by law, including the right to collect and receive
 3-56 any revenue used to secure the bonds.

3-57 (c) A breach of a resolution of the executive director of
 3-58 the office adopted under Section 489.253, a breach of an agreement
 3-59 made under this section, or a default under bonds issued under this
 3-60 subchapter does not constitute:

3-61 (1) a pecuniary liability of this state, the office,
 3-62 or the bank; or

3-63 (2) a charge against the general credit of this state,
 3-64 the office, or the bank, or against the taxing power of this state.

3-65 (d) The trustee or trustees under a security agreement or a
 3-66 depository specified by the security agreement may be any person
 3-67 that the bank designates, regardless of whether the person is a
 3-68 resident of this state or incorporated under the laws of the United
 3-69 States or any state.

4-1 Sec. 489.256. REFUNDING BONDS. (a) Bonds issued under
 4-2 Section 489.253 may be refunded by the bank by the issuance of the
 4-3 bank's refunding bonds in the amount that the bank considers
 4-4 necessary to refund the unpaid principal of the refunded bonds,
 4-5 together with any unpaid interest, premiums, expenses, and
 4-6 commissions required to be paid in connection with the refunded
 4-7 bonds. Refunding may be effected whether the refunded bonds have
 4-8 matured or are to mature later, either by sale of the refunding
 4-9 bonds or by exchange of the refunding bonds for the refunded bonds.

4-10 (b) A holder of refunded bonds may not be compelled to
 4-11 surrender the bonds for payment or exchange before the date on which
 4-12 the bonds are payable, or, if the bonds are called for redemption,
 4-13 before the date on which they are by their terms subject to
 4-14 redemption.

4-15 (c) Refunding bonds having a final maturity not to exceed
 4-16 that permitted for other bonds issued under Section 489.253 may be
 4-17 issued under the same terms and conditions provided by this
 4-18 subchapter for the issuance of bonds or may be issued in the manner
 4-19 provided by statute, including Chapters 1207 and 1371.

4-20 Sec. 489.257. USE OF BOND PROCEEDS. The proceeds from the
 4-21 sale of bonds issued under this subchapter may be applied only for a
 4-22 purpose for which the bonds were issued, except that:

4-23 (1) any secured interest received in the sale shall be
 4-24 applied to the payment of the principal of or interest on the bonds
 4-25 sold and, if a portion of the proceeds is not needed for a purpose
 4-26 for which the bonds were issued, that portion shall be applied to
 4-27 the payment of the principal of or interest on the bonds; and

4-28 (2) any premium received in the sale of the bonds shall
 4-29 be applied in accordance with Section 1201.042(d).

4-30 Sec. 489.258. BONDS AS LEGAL INVESTMENTS FOR FIDUCIARIES
 4-31 AND OTHER PERSONS. (a) Bonds of the bank issued under this
 4-32 subchapter are securities in which all public officers and bodies
 4-33 of this state; municipalities; municipal subdivisions; insurance
 4-34 companies and associations and other persons carrying on an
 4-35 insurance business; banks, bankers, trust companies, savings and
 4-36 loan associations, investment companies, and other persons
 4-37 carrying on a banking business; administrators, guardians,
 4-38 executors, trustees, and other fiduciaries; and other persons
 4-39 authorized to invest in other obligations of this state may invest
 4-40 funds, including capital, in their control or belonging to them.

4-41 (b) Notwithstanding any other provision of law, the bonds of
 4-42 the bank issued under this subchapter are also securities that may
 4-43 be deposited with and received by public officers and bodies of this
 4-44 state and municipalities and municipal subdivisions for any purpose
 4-45 for which the deposit of other obligations of the state are
 4-46 authorized.

4-47 Sec. 489.259. ADMINISTRATION OF LEVERAGE FUND. The bank
 4-48 shall administer the leverage fund. In administering the leverage
 4-49 fund and this subchapter, the bank has the powers necessary to carry
 4-50 out the purposes of this subchapter, including the power to:

4-51 (1) make, execute, and deliver contracts,
 4-52 conveyances, and other instruments; and

4-53 (2) impose charges and provide for reasonable
 4-54 penalties for delinquent payments or performance in connection with
 4-55 any transaction.

4-56 SECTION 2. Section 501.008, Local Government Code, is
 4-57 amended to read as follows:

4-58 Sec. 501.008. LIMITATION ON FINANCIAL OBLIGATION.
 4-59 (a) Except as provided by Subsection (b), a [A] corporation may
 4-60 not incur a financial obligation that cannot be paid from:

4-61 (1) bond proceeds;
 4-62 (2) revenue realized from the lease or sale of a
 4-63 project;

4-64 (3) revenue realized from a loan made by the
 4-65 corporation to wholly or partly finance or refinance a project; or

4-66 (4) money granted under a contract with a municipality
 4-67 under Section 380.002.

4-68 (b) A Type A or Type B corporation may obtain a loan from the
 4-69 Texas leverage fund program under Subchapter E, Chapter 489,

5-1 Government Code, for eligible projects as authorized by this
 5-2 subtitle. To secure the loan, the Type A or Type B corporation may
 5-3 pledge revenue from the sales and use tax imposed by the
 5-4 corporation's authorizing municipality under Chapter 504 or 505, as
 5-5 applicable, for the benefit of the corporation.

5-6 SECTION 3. The Texas leverage fund program as amended by
 5-7 this Act authorizes the continued operation of the program that was
 5-8 established by the September 9, 1992, master resolution of the
 5-9 Texas Department of Commerce under Chapter 4 (S.B. 223), Acts of the
 5-10 71st Legislature, Regular Session, 1989 (codifying authority of the
 5-11 former Texas Department of Commerce to issue revenue bonds under
 5-12 former Sections 481.052 through 481.058, Government Code), as
 5-13 amended by Chapter 1041 (S.B. 932), Acts of the 75th Legislature,
 5-14 Regular Session, 1997, and by Chapter 814 (S.B. 275), Acts of the
 5-15 78th Legislature, Regular Session, 2003.

5-16 SECTION 4. (a) Except as provided by Subsection (b) of
 5-17 this section, the governmental acts and proceedings of the
 5-18 comptroller, the Texas Economic Development and Tourism Office, and
 5-19 the Texas Economic Development Bank relating to the administration
 5-20 of the Texas leverage fund program that occurred before the
 5-21 effective date of this Act are validated as if the acts had occurred
 5-22 as authorized by law.

5-23 (b) This section does not validate:

5-24 (1) an act that, under the law of this state at the
 5-25 time the act occurred, was a misdemeanor or felony; or

5-26 (2) a matter that on the effective date of this Act:

5-27 (A) is involved in litigation if the litigation
 5-28 ultimately results in the matter being held invalid by a final
 5-29 judgment of a court; or

5-30 (B) has been held invalid by a final judgment of a
 5-31 court.

5-32 SECTION 5. The comptroller of public accounts is required
 5-33 to implement a provision of this Act only if the legislature
 5-34 appropriates money specifically for that purpose. If the
 5-35 legislature does not appropriate money specifically for that
 5-36 purpose, the comptroller may, but is not required to, implement a
 5-37 provision of this Act using other appropriations available for that
 5-38 purpose.

5-39 SECTION 6. The Texas Economic Development and Tourism
 5-40 Office is required to implement a provision of this Act only if the
 5-41 legislature appropriates money specifically for that purpose. If
 5-42 the legislature does not appropriate money specifically for that
 5-43 purpose, the office may, but is not required to, implement a
 5-44 provision of this Act using other appropriations available for that
 5-45 purpose.

5-46 SECTION 7. The Texas Economic Development Bank is required
 5-47 to implement a provision of this Act only if the legislature
 5-48 appropriates money specifically for that purpose. If the
 5-49 legislature does not appropriate money specifically for that
 5-50 purpose, the bank may, but is not required to, implement a provision
 5-51 of this Act using other appropriations available for that purpose.

5-52 SECTION 8. The attorney general is required to implement a
 5-53 provision of this Act only if the legislature appropriates money
 5-54 specifically for that purpose. If the legislature does not
 5-55 appropriate money specifically for that purpose, the attorney
 5-56 general may, but is not required to, implement a provision of this
 5-57 Act using other appropriations available for that purpose.

5-58 SECTION 9. This Act takes effect immediately if it receives
 5-59 a vote of two-thirds of all the members elected to each house, as
 5-60 provided by Section 39, Article III, Texas Constitution. If this
 5-61 Act does not receive the vote necessary for immediate effect, this
 5-62 Act takes effect September 1, 2019.

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